

SHOREVIEW PLANNING COMMISSION MEETING MINUTES

April 28, 2009

CALL TO ORDER

Chair Proud called the meeting of the April 28, 2009 Shoreview Planning Commission meeting to order at 7:00 p.m.

ROLL CALL

The following members were present: Chair Proud, Commissioners Feldsien, Ferrington, Mons, Schumer, Solomonson and Wenner

APPROVAL OF AGENDA

Chair Proud noted that items A. and B. are not public hearings as stated on the agenda.

Commissioner Feldsien requested a brief report on the Blaine Airport under the *Miscellaneous* portion of the meeting.

MOTION: by Commissioner Mons, seconded by Commissioner Feldsien to approve the April 28, 2009 agenda as amended.

ROLL CALL: Ayes - 7 Nays - 0

APPROVAL OF MINUTES

Page 8: Reference to Chair Mons should be Commissioner Mons.

MOTION: by Commissioner Mons, seconded by Commissioner Solomonson to approve the March 24, 2009 Planning Commission minutes as amended.

ROLL CALL: Ayes - 7 Nays - 0

REPORT ON CITY COUNCIL ACTIONS

City Planner Kathleen Nordine reported that at the April 6th and April 20th City Council meetings the Council took no action on planning items. She noted that at the April 6th meeting, the Council did approve the Woodbridge road reconstruction project, which will include use of pervious pavement to improve drainage in the area.

TEXT AMENDMENT - ARCHITECTURAL DESIGN STANDARDS

FILE NO.: 2346-09-04
APPLICANT: CITY OF SHOREVIEW
LOCATION: CITY WIDE

Presentation by Senior Planner Rob Warwick

At the March 24, 2009 meeting, the Planning Commission held a public hearing and reviewed draft text on the proposed architectural design text amendment. The matter was tabled with a request for further information on parking area landscaping and minimum parking requirements. Also, comments from the Environmental Quality Commission (EQC) have been incorporated as requested.

Current code requires 20% of the parking area be designed with landscape islands to mitigate the impact of the parking area, increase safety with drive aisles and shade trees reduce the heat island effects. Since the last meeting, staff reviewed codes of other cities. A variety of approaches are used to address landscaping. Some require landscaping based on lineal street frontage. A tree may be required per a number of parking stalls. Others require landscaped islands for 2% to 10% of the parking area. Some municipalities use a combination of these approaches. Islands are a problem for snow storage. The concern of the Commission is the reduction of parking to less than 20%. Staff would recommend that a reduction would be allowed to not less than 10%, if sustainable methods are used for development, such as shared parking or travel demand management are used on the site. A provision was added that requires one shade tree per 10 parking stalls on the perimeter or island landscaping. A minimum 10-foot setback from impervious surface is proposed for planted trees.

Based on research of other communities' regulations and discussion of parking needs with developers, staff cannot recommend lowering the parking ratios. Staff would recommend that the City allow reduced parking as long as proof of parking is demonstrated to meet future needs. There is a great deal of variability in parking space needs for offices. Retail uses have seasonal parking peaks and parking needs to accommodate seasonal demand. Retail and office uses are clustered in different areas leaving little opportunity for shared parking. Staff has focused on need-based parking with the requirement for proof of parking to meet the ratio standard. That means that land has to be dedicated to future parking use if needed.

Two other revisions include a statement of intent within the Code so that developers understand that parking requirements can be offset with sustainable practices in their design. The second item is stacking spaces to for drive-through businesses so as not to interfere with pedestrians. The Environmental Quality Committee comments have been incorporated, except for references to wind energy, which will be covered later in a separate ordinance.

Commissioner Mons requested that the term “travel demand management” could be explained as referring to carpooling or busing. Also “shared parking” could be further defined to mean with other businesses. He asked if additional landscaping would be included in sustainable practices as an offset to parking. Mr. Warwick explained that sustainable practices refer to construction techniques, materials used, heating. Use of these techniques is intended to give the City flexibility with the site review. Landscaping that screens an adjacent parking area would also be considered. Commissioner Mons requested that such additional parking be listed specifically. He further asked the reason for six stacking spaces, which seems high. Mr. Warwick stated that the number six is a municipal standard.

Commissioner Solomonson asked for clarification of what would be needed in the lower parking lot of the Community Center to meet the 20% standard. Mr. Warwick stated that currently the lot is at 13%. The area in green shows how much the lot would have to be expanded so that the addition of islands would be the 7%.

Commissioner Mons requested that perimeter be clarified to specify the perimeter of the parking area in regard to planting one tree for every 10 parking spaces.

Chair Proud opened the discussion to public comment. There were none.

Commissioner Mons suggested a minimum requirement for tree height for trees that would be planted. He would like to see an offset provision to include landscaping that enhances the visual effect or landscaping that would block the view of the parking lot. He questioned the relationship between sustainable practices being used as a tradeoff for parking islands.

Chair Proud, referring to (C) (4) on page 13 of 18, asked if the City has a right to request that parking be built based on need. Mr. Warwick answered, yes. Chair Proud asked the definition of a “pedestrian style light bulb” referenced on Page 14 of 18, (A) (1). Mr. Warwick explained pedestrian style lights have lower poles and have general area lighting. Lights area not directed downward.

Commissioner Solomonson referred to page 16 of 18 (B) (1) (a), which should state “Avoid expanses of wall by using windows...”. Commissioner Solomonson agreed with Commissioner Mons questioning the relationship of sustainable building design to offset parking. Mr. Warwick responded that incentives were previously discussed, and staff believes allowing parking to be offset by the use of sustainable techniques will be an incentive to developers to use those techniques.

Commissioner Mons suggested that the ordinance generally state that if sustainable techniques are used, the City is willing to be flexible on other elements, rather than specify parking. Flexibility with parking requirements would be one element among others. The way it is referenced sustainable techniques seem exclusively related to parking. Chair Proud noted on page 8 of 18, item (ii) references the section of the Code where sustainable building design

elements are addressed.

City Attorney Filla stated that the City can deem whatever it believes appropriate as a tradeoff on PUDs. He agreed that parking is not specifically related to sustainable building techniques. He suggested inserting the phrase that “a landscaping plan for the overall site which softens the impact of the parking area on surrounding property.”

Commissioner Solomonson asked if there are any drive-through lanes constructed the way this ordinance is written with 12-foot widths and room for six stacked cars. ATM lanes are very narrow and if there are two or three cars stacked, customers tend to park and go inside. Mr. Warwick stated that the 12-foot width with a minimum of six stacking spaces is standard. It is important to not have facilities built in the future that do not meet the standard.

MOTION: by Commissioner Mons, seconded by Commissioner Wenner to recommend the City Council adopt the text amendments to Chapter 200 of the Municipal Code pertaining to architectural and site design standards. The amendments are intended to address in-fill and redevelopment of non-residential properties in the City.

The recommendation is based on the following findings:

1. The City’s 2008 Comprehensive Plan includes policies and recommended actions regarding adoption of design standards.
2. The Development Code is the appropriate tool for implementing the policies of the Comprehensive Plan.

Discussion:

Commissioner Mons offered an amendment that would allow general landscaping and soften the building, parking area and site impact as a tradeoff for reduced parking island landscaping from 20% to no less than 10%. Commissioner Wenner accepted the amendment.

City Attorney Filla suggested the amendment be added to Section 202.020(A)(1)(b) as item (v) on page 8 of 18. Commissioners Mons and Wenner accepted that addition as part of the amendment.

ROLL CALL ON AMENDMENT:

Ayes - 7

Nays - 0

ROLL CALL ON APPROVAL OF THE TEXT AMENDMENT AS AMENDED:

Ayes - 7

Nays - 0

TEXT AMENDMENT – REGISTRATION/RECERTIFICATION OF VACANT AND/OR FORECLOSED DWELLING UNITS

FILE NO.: 2348-09-06
APPLICANT: CITY OF SHOREVIEW
LOCATION: CITY WIDE

Presentation by City Planner Kathleen Nordine

At the March meeting, the Planning Commission discussed a proposed ordinance to establish a registration and re-certification program for vacant/foreclosed residential properties. The matter was tabled with the request that more details be provided regarding enforcement of the ordinance and outreach. Changes have been made to include the following: definitions of vacant property, property owner, and foreclosed residential property. The ordinance requires vacant and foreclosed residential properties to pay a fee and be registered with the City. The fee is deemed appropriate for vacant and foreclosed properties because the same challenges exist for the City—lack of maintenance, tracking down the responsible party and addressing nuisance conditions in neighborhoods. Registration would establish a point of contact in case of emergency. Fees will be imposed for any monitoring or maintenance done by the City. There is a wide range of fees in the metro area. The City Council will determine the fees.

Vacant/foreclosed properties are identified using two databases. One is Sheriff sale activity and the second is utility billing data on water consumption. If there is low or no water consumption, the City can inspect the property for vacancy. Contact information is provided in these databases.

Information about this ordinance will be publicized in the media, cable TV, the City's website and newsletter. Information will also be sent property management companies, real estate attorneys, lenders or mortgage companies listed as contacts with the property. A VacantWatch program will encourage residents to report vacant properties. The City will work with law enforcement to monitor property violations. Housing programs will be established to offer incentives to buyers to acquire vacant residential properties. The City will also work with homeowner associations.

City Attorney Filla clarified that the definition of foreclosed residential dwelling should be residential property, which has been sold at a Sheriff's sale. The date of sale is the determining date when the property is determined to be a foreclosed property. It is also important to know whether or not the foreclosed properties are occupied.

Commissioner Feldsien asked if the fees are charged one time or are paid annually. Ms. Nordine answered that the fees are annual. Commissioner Feldsien expressed concern about a property

that is vacant but is kept up. Why would that person have to keep paying the fee just because they are not living there. Ms. Nordine agreed that some properties will require less staff time than others, but all properties will be treated equally in regard to fees because staff will continue to monitor all vacant properties.

Commissioner Mons expressed concern about vacant properties that are part of an estate or, as stated by Commissioner Feldsien, a property where the owner is not living. The problem has resulted from the increase in foreclosed properties, not vacant estates. He suggested that only vacant properties that are not maintained be charged a fee. Ms. Nordine stated that any vacant property presents the same level of concern for the City.

Commissioner Ferrington asked the definition of vacant and whether it includes properties where owners are gone during the winter. Ms. Nordine referred to page 2, item 8) where Vacant Residential Dwelling is defined.

Commissioner Solomonson suggested that prospective buyers be advised of the length of time a Certificate of Occupancy is valid as a point of information when purchasing.

Commissioner Mons stated that when the property is sold, it is sold “as is.” He has not encountered any estate or vacant property or foreclosed property that was not sold “as is.” The State of Minnesota requires a seller’s disclosure. However, an estate or bank-owned property is exempt and is handled on an “as is” basis. He stressed his concern about the difference between vacant estates and foreclosed properties. He believes the City’s philosophy will create a lot of problems.

Chair Proud opened the discussion to public comment.

Mr. Patrick Ruble, Government Affairs Director for the St. Paul Area Association of Realtors, stated that realtors are aware of the negative impacts of foreclosure and the need to have the properties re-occupied as quickly as possible. That is difficult because the foreclosure process can take 6 to 12 months. The Association generally opposes extra steps, such as a city requirement for registration and re-certification before a property is re-occupied because this adds to the burden of re-occupation. First-time buyers are likely to be at their maximum of what they have to offer with just purchasing the property. He is very concerned about the 110% construction escrow described in the ordinance to rehab the property that may not have been envisioned by the buyer. It has been difficult working with communities with registration programs. The Association supports only disclosure at the point of sale. He offered to meet and work with staff on language. He noted Brooklyn Center, which requires registration, but by registering a buyer is eligible for a \$10,000 incentive to purchase the property.

Commissioner Mons asked if the Association would be concerned about relocation of properties and vacant estates. **Mr. Ruble** agreed with Commissioner Mons’ concerns about the definitions of vacant buildings, relocations and estates. Relocation properties are vacant, but they are maintained. Foreclosures are completely different.

City Attorney Filla stated that at the Sheriff's sale the bank usually buys the property. After the notice of foreclosure sale, the property may be occupied another six months because the foreclosed property owners have six months after the Sheriff's sale to redeem the property from the bank.

Mr. Jim Collins, 3133 Victoria Street, stated that he owns vacant property in Shoreview. His concern is a possible requirement to post a sign stating the property is vacant. A second concern is as a landlord having to pay multiple registration fees for vacant properties. Ms. Nordine verified that there would be a fee for each vacant property.

Commissioner Mons asked if a unit vacated by a tenant is vacant two months is then considered vacant and has to be registered. Ms. Nordine stated that would be a temporary vacancy and would not require registration. If the unit is vacant more than three months, it should be registered. There would be a break in the fee because re-certification would not be required.

Commissioner Mons suggested that the trigger for vacant properties to pay a registration fee would be at the point of a code violation. Applying registration to estates and relocations is a dilemma. Registration of foreclosed properties triggers an obligation for compliance. Ms. Nordine stated that the intent of the ordinance is to encourage reinvestment in older properties, which is a Comprehensive Plan goal. The ordinance is intended to bring the property to the minimum standard. Commissioner Mons asked if there is a penalty for non-registration. He would also like to know to what extent there must be compliance with the Building Code and Housing Code. The property owner with non-compliant windows can sell the property. However, under foreclosure, compliance is required, which will be costly. That is a dilemma. The buyer is going to have to close with 110% escrow. If the goal is to have the properties occupied, this ordinance hurts that effort.

Chair Proud suggested laying this ordinance over for further deliberation. He supports addressing foreclosed properties but believes addressing vacant properties in the same way could be burdensome. Vacant properties should be addressed in a different ordinance.

Commissioner Schumer stated that his is also concerned about including vacant and relocation properties that are maintained. He also questions relocations, estates and seasonal residences. He likes the idea of a process to enforce the code on vacant properties not maintained and foreclosed properties, but he would not support the ordinance as written.

Commissioner Ferrington asked the difference between re-certification for occupancy and rental licensing inspection. Ms. Nordine stated that they are the similar. Commissioner Ferrington stated that she could support the ordinance.

Commissioner Solomonson stated that he believes it is difficult to define when a property becomes vacant. He would rather address foreclosed properties and address vacant properties differently. He agreed with registering properties that have a code violation, but it will be

difficult to get everyone to register every vacant parcel. The trigger of a code violation makes sense.

Commissioner Feldsien stated that he can support the ordinance. He does not have a problem defining a vacant property as one not being lived in, but he would like to see the definition further clarified. He also would like to see the fee structure better defined.

Commissioner Wenner stated that the City has limited staff and resources. What is proposed is reasonable. The standards are positive and not burdensome. There is an increase in vacancies and foreclosures and he believes that staff has proposed a reasonable approach.

MOTION: by Commissioner Ferrington, seconded by Commissioner Wenner to table this matter to the next Planning Commission meeting in order for staff to provide more information.

Discussion:

Commissioner Mons requested that Commissioners receive a copy of the Building Code and improvements under the Housing Code that are considered necessary for health and safety for re-occupation.

ROLL CALL: Ayes - 7 Nays - 0

NEW BUSINESS

PUBLIC HEARING – TEXT AMENDMENT – NUISANCE ABATEMENTS

FILE NO.: 2349-09-07
APPLICANT: CITY OF SHOREVIEW
LOCATION: CITY WIDE

Presentation by City Planner Kathleen Nordine

Public nuisances are increasing as a result of increasing vacancies and foreclosures with the responsible party for these properties difficult to find. The current nuisance ordinance does not provide for a streamlined response. This proposal would define and list public nuisances which would include but not be limited to: dense smoke, noxious fumes, gas, soot or cinders in unreasonable quantities, obstructions and excavations affecting the public use of streets, trails, etc. and obstruction of the public storm water system. This proposed ordinance would also establish an accelerated abatement process for all health and safety public nuisances. Accelerated abatement would only be used when the nuisance rises to the level of threatening public health and safety. Any costs associated with abatement will be charged to the property owner or assessed to the property if not paid. Emergency and immediate abatements are also

provided in this ordinance for any imminent or serious hazard to human life or safety without notice to the property owner.

The proposed ordinance was discussed by the City Council at the April 13th workshop meeting. The Council supports the changes and definitions of public nuisances.

Commissioner Mons asked if a formal hearing is required by the City Council or can it be delegated to a committee. City Attorney Filla stated that only the City Council can hold the public hearing. The City Council could hold a special meeting within three days. In the event of a safety emergency, no hearing is required.

Commissioner Ferrington clarified that there are two abatement processes--emergency and immediate. Ms. Nordine stated that there are three. The first is a general abatement process. The emergency allows abatement if there is danger of health, safety and welfare to the community. Immediate abatement can occur if there is an immediate threat of danger without notice to the property owner and without a hearing.

Chair Proud opened the public hearing. There were no comments or questions.

MOTION: by Commissioner Mons, seconded by Commissioner Feldsien to close the public hearing.

ROLL CALL: Ayes - 7 Nays - 0

Chair Proud referred to 210.010 (A)(3) suggested “devalues” in place of “depreciates”.

City Attorney Filla stated that the language reflects impact to the public, not a private matter. Either word would work.

Referring to page 4, Chair Proud asked if reference to “peace officer” should be changed to City officials. City Attorney Filla agreed but stated that it should be a law enforcement entity however stated.

Commissioner Wenner questioned whether 210.010 (B) (14) is inclusive enough. He has seen sidewalks with rocks that are dangerous for pedestrians and would like to see that included. City Attorney Filla suggested adding “or other objects” after the word “trees”.

Commissioner Feldsien referred to page 4, 210.020 (C) and noted that “unreasonable” in the second sentence should be “unreasonably”.

MOTION: by Commissioner Mons, seconded by Commissioner Feldsien to recommend the City Council adopt the text amendment to Section 210, Nuisance, broadening the definition of health and safety nuisances, and amending the abatement process subject to the comments and changes in

this meeting discussion.

The recommendation is based on the following findings:

1. The City's 2008 Comprehensive Plan includes policies and recommended actions regarding neighborhood preservation.
2. The Development Code is the appropriate tool for implementing the policies of the Comprehensive Plan.

ROLL CALL: Ayes – 7 Nays – 0

MISCELLANEOUS

Council Assignments

Commissioners Mons and Ferrington are respectively assigned to attend the May 4th and May 18th City Council meetings.

Planning Commission Workshop

The Planning Commission will hold a workshop meeting immediately prior to its regular meeting on Tuesday, May 26, 2009, at 6:00 or 6:15 p.m.

Blaine Airport

Mr. Warwick stated that the Metropolitan Airport Commission is proceeding with a long-range plan for the Blaine Airport. There will be a meeting Thursday, April 30, 2009, and he will report further at the next meeting.

ADJOURNMENT

MOTION: by Commissioner Schumer, seconded by Commissioner Feldsien to adjourn the April 28, 2009 Planning Commission meeting at 10:02 p.m.

ROLL CALL: Ayes - 7 Nays - 0

ATTEST:

Kathleen Nordine
City Planner

